



Public Schools of North Carolina

Test Your Policy Knowledge

Teresa King and Leigh Mobley
Dispute Resolution Consultants

AGENDA

- Introductions
- Scenario One: Referral, suspected disability, evaluations and eligibility timeline
- Scenario Two and Three: Discipline
- Q&A



Suspected Disability

Sandra is repeating second grader who continues to struggle with reading comprehension, fluency, writing, focusing in class and organizational skills. She has been receiving interventions through the MTSS process since last school year. She showed little progress last year due to her behavioral issues; therefore the interventions were discontinued. This school year, the teacher began interventions in reading comprehension, fluency and writing during the first six weeks of school. Though showing some progress in reading comprehension, she continued to show little progress with fluency and writing. Her inability to attend to task for more than 10 minutes affected her progress. The teacher started interventions to address the student's focusing and organizational skills after the first quarter. Sandra continued to perform below grade level and had several office referrals for not following directions.



Suspected Disability/Referral

During the third quarter parent/teacher conference, the parent expressed concerns about Sandra's lack of progress with interventions and concerns with retention again. The teacher recommended to refer the student for evaluations for special education services. The IEP Team met and discussed her strengths, needs, classroom data, intervention data and parent and teacher concerns. The student was evaluated and when the team reconvened 78 days after the referral meeting, the SLD worksheet was completed.



Eligibility

The team decided the student wasn't eligible due to a lack of a 15 point discrepancy and questioned about her inability to stay focused. The teacher asked if the student may have ADHD due to her continued struggle with focusing, following directions and lack of organizational skills. The special education teacher suggested for the parent to take the student to her pediatrician and have the Medical Form/Evaluation filled out then the team will reconvene. The parent expressed concerns about being able to get an appointment quickly as her daughter continued to get behind. She continued to believe there was something wrong. Parent asked what can she do because she doesn't agree with the team.



Prior Written Notice

Proposals/Decision: The IEP Team reviewed all the evaluations conducted and there was no 15 point discrepancy therefore the team decided the student did not qualify for SLD eligibility. The team discussed the student's inability to stay focused in class, lack of organizational skills and difficulties in following directions. The team decided a medical evaluation is needed to determine if the student had a medical condition which may be the cause of her focusing and organizational issues. The parent will take Sandra to the doctor and return the medical form. Once returned, the team will reopen the special education process. In the meantime, interventions will continue. The parent did not agree. Parent will set up a meeting with the principal.

Refusals: The IEP Team discussed finding the student eligible but rejected this option. The team rejected not following up on the need for a medical evaluation for focusing issues. The team rejected not continuing interventions. The student continues to make progress, though at a slow and inconsistent pace.

Information used: Parent input, teacher input, psychoeducational evaluation, intervention data, and observations

Implementation Date of decision: Same day of the meeting



Referral/Suspected Disability

“When a public agency or parent suspects that a child may be a child with a disability, he/she shall provide in writing the reason for the referral, addressing specific presenting concerns and the child’s strengths and needs.” NC 1503-2.1



Evaluations

“In conducting the evaluation, each LEA must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability. The LEA must not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate education program. Each LEA must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, social and emotional states, general intelligence, academic performance, communicative status, and motor abilities.” NC1503-2.5(b)(1)(2)(c)(4)



90 day timeline

“Evaluations must be conducted, eligibility determined, and for an eligible child, the IEP developed and placement completed within 90 days of receipt of a written referral; and the IEP Team must determine if the child is a child with a disability and the educational needs of a child.” NC1503-2.2(c)



Prior Written Notice

“Written notice must be given to the parents of a child with a disability a reasonable time before the LEA proposes to initiate or change the identification, evaluation , or educational placement of the child or the provision of FAPE to the child’ or refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE; and the notice of this section must include a description of the action proposed or refused by the LEA; an explanation of why the LEA proposed or refused by the LEA; a description of the evaluation procedure, assessment, record, or report the LEA used as a basis for the proposed or refused action;



Prior Written Notice

a statement that the parent of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; sources for parents to contact to assistance in understanding the provisions of this part, a description of other options the IEP Team considered and the reason why those options were rejected; and a description of other factors that are relevant to the LEA's proposal or refusal."NC 1504-1.4



Questions

1. Was the student referred at the appropriate time for evaluations?
2. Did the referral team determine all areas of suspected disability?
3. If not, what else should have been considered?
4. Did the team follow the eligibility process?
5. Does the PWN address all required areas?



Discipline



Student profile

Juan is an 8th grader identified as a student with a disability. His eligibility area is “Intellectual Disability-Mild”. He receives 60 minutes a day of specially designed instruction in the EC classroom for social/emotional skills, 60 minutes a day for reading in the general education classroom and 60 minutes a day for math in the general education classroom. He has behavior goals regarding keeping his hands to himself when he becomes angry.



Violations of the Code of Conduct

- In October, Juan was suspended from the bus for three days due to pushing a girl who kept telling him to move seats. He did not attend school those three days because his mother could not transport him.
- In December, Juan was suspended from school for five days due to hitting another male student with his book bag because he was sitting at his desk when he entered the classroom and would not move when he asked him to do so.
- In January, the student was placed in school suspension for one day due to screaming at a girl as he walked towards her for making fun of his shoes. A special education teacher checked on the student to ensure he was completing his work.
- In February, Juan was suspended from the bus for five days due to shoving a student into the aisle of the bus when it was moving. The student did not attend school those days due to the parent having no transportation at the time.



MDR meeting

A Manifestation Determination Review was held on the fifth day of the last suspension from the bus. The team reviewed the prior suspensions, IEP, classroom data, discipline reports, and input from the parent and the teacher. The team determined this incident is a manifestation of the student's disability due to the aggressive behavior. The student returned to school the next day. No IEP meeting was held.



Change In Placement

According to the *NC Policies*, “ For purposes of **removal** of a child with a disability from the child’s current educational placement, a change of placement occurs if—(1) The **removal** is for more than 10 consecutive school days or (2) The child has been subjected to a series of removals that constitute a pattern—(i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in the series of removals; and (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been **removed**, and the proximity of the removals to one another.”
[NC1504-2.7(a)]



Discipline Policies

“After a child with a disability has been removed from his or her current placement for 10 school days within the same school year, during any subsequent days of removal the public agency must provide services to the extend required under paragraph (d) of this section.



Discipline Policies

A child with a disability who is removed from the child's current placement must continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, if appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violations so that it does not recur. IF a behavioral intervention plan already has been developed, it must be reviewed and modified , as necessary to address the behavior. The services of this section may be provided in an interim alternative educational placement. If the removal is a change of placement, the child's IEP Team determines appropriate services." NC 1504-2.1(b)(2)(d)(1)(2)(5)



Interim Alternative Educational Setting

“ The child’s IEP Team determines the interim alternative educational setting for services under NC 1504-2.1(c)(d), and (g).”
NC 1504-2.2



Manifestation Determination

“Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and LEA) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parent to determine—(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or (ii) If the conduct in question was the direct result of the LEA’s failure to implement the IEP.” NC1504-2.1 (e)(1)



No manifestation (over 10 consecutive days)

“For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of school code is determined not to be a manifestation of the child’s disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as procedures would be applied without disabilities, except as provided in paragraph (d) of this section.” NC1504-(c)



Manifestation

“If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must either conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in a change in placement occurred, and implement a behavior intervention plan for the child; and if a behavior intervention plan already has been developed, review the behavioral intervention plan, and modified, as necessary, to address the behavior; and except for (special circumstances provision), return the child to the placement from which the child was removed, unless the parent and LEA, through the IEP Team process, agree to a change in placement.” NC 1504-2.1(f)



Questions

1. Did the team hold the MDR meeting at the appropriate time?
2. If not, when should it have been held?
3. Did the team follow the discipline process?
4. If not, where did the team violate the policies?



Discipline Process

What are your district's steps in ensuring the discipline procedures are being followed in each school for students with disabilities?



Student Profile

Brandon is a 11th grade student identified as a student with disability. The student eligibility area is Autism. Brandon receives his instruction in a self contained classroom following the extended content standards. He has a BIP to address his running from staff and out of school building.



Violation of Code of Conduct

Brandon ran out of the classroom with a cutting knife in his hand he found in the staff's kitchen which is attached to the classroom. When staff approached, they were able to remove from his hand and escorted student back to the classroom. The principal and EC administrator decided to invoke the 45 day special circumstances provision. The IEP Team met and placed the student on homebound instruction.



Special Circumstances

“School personnel may remove a student to an interim alternative education setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child’s disability if the child carries a weapon to or possesses a weapon at school, on school premises, or at a school function.” NC 1504-2.1(g)(1)



Question

Describe how the discipline process was or was not followed, including the responsibility of the school principal.



Questions and Answers



Dispute Revolutionists

Teresa King

(919) 807-

Teresa.king@dpi.nc.gov

Leigh Mobley

(919) 807-3528

leigh.mobley@dpi.nc.gov

